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TO THE HONORABLE HOUSE OF ASSEMBLY.

YOUR COMMITTEE, to whom was referred that part of the Journals of last Session, containing the Letter of the Speaker of the House of Assembly of Lower Canada, with certain Resolutions of that House, accompanying the same,

BEG LEAVE TO SUBMIT THE FOLLOWING REPORT:

THE subject to which the attention of your Committee has been directed, can be most conveniently treated under two distinct heads:

First—The Resolutions of the Honorable the House of Assembly of Lower Canada.

Second—The Letter of Mr. Speaker Papineau.

Those Resolutions, it seems, were adopted by the House of Assembly of the Lower Province in February last, and apparently with the expectation and hope, that similar views were taken, and a co-operation for similar purposes might be obtained, in the Sister Colonies of North America, but more especially in this Province.

The Resolutions adopted with the expectation of similar views in the sister Provinces.

The first of these Resolutions declares—"That
" this House, in its exertions to procure a redress
" of the various grievances under which the people of this Province labour, and to introduce a
" good and responsible system of Local Government, have, in addition to the other weighty and
" substantial reasons by which it has been guided,
" been greatly encouraged by the hope and expectation that any amelioration in the political institutions of the Colony, would be followed, of
" right, by similar advantages to our brethren inhabiting the Sister Provinces of British North
" America."

This expectation expressed in the first Resolution.

It is evident to this Committee what form of Government was to be set aside in favor of the new one recommended.

Machinery of Government the same in both Provinces, altho' in some respects the laws differ.

Liberty of the Catholic religion guaranteed to Lower Canada by the treaty of Paris in 1763.

Population at that time about 70,000.

Increase of Territory rendered additional Governments necessary.

U. E. Loyalists invited to settle in the different Provinces.

The introduction of what is termed "a good and responsible system of Local Government," and the extension of "similar advantages" to other Colonies, are the main points of this Resolution. With regard to the former, your Committee are at least able to form a conclusive opinion of the form of Government which is to be set aside in favour of some other which the Assembly of Lower Canada style "good and responsible;" since the Constitutional Charter of the two Colonies is identical—and although the laws relating to civil rights and property differ, (and that difference can be no cause of complaint for the Assembly of Lower Canada,) the machinery of the Local Government, and the general principles of its administration are the same in both Provinces.

By the Treaty of Paris, in 1763, Canada, with its dependencies, (then in the possession of Great Britain, by conquest,) was ceded to His Majesty George the Third, who, by that Treaty, guaranteed to the Canadians the liberty of the Catholic Religion; and also permission to any of them, who were desirous to do so, to sell their property, and emigrate at any time within eighteen months from the ratification of that Treaty. The population at that time did not exceed 70,000. The great acquisition of territory in North America, which Great Britain gained, rendered the creation of additional Colonial Governments necessary for these newly conquered countries; and at the same time, with a view of encouraging settlers in them, lands were offered to officers and men who had served in the late War. In the Proclamation of 7th October, 1763, provision was made for the Civil Government, which was entrusted in each Colony to a Governor and Council, who had power to erect courts of Judicature, to determine in all cases, civil or criminal, according to law and equity, as near as might be, in conformity to the laws of England, giving an appeal to the Privy Council. The Government of the Province of Quebec was

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thus administered until the year 1774, when the Statute 14th Geo. III. was passed. The inhabitants at that time amounted to about 90,000, the principal part of whom were of French extraction. The objects of that law appear to have been to provide a Council for all the affairs of the Province, except taxation, in which Council the French Canadians were eligible to a seat: *to establish the French Laws*, and trial according thereto in civil cases,—and the English Laws, with Trial by Jury, in criminal: to secure to the Roman Catholic Clergy, (with certain exceptions,) their estates, as well as tythes from those of their own persuasion. A most cursory examination of the details of this Act, cannot fail to lead to the conclusion that it was passed with an earnest desire to give to the French Canadians the free enjoyment of those laws to which they had been accustomed; to secure to them the full exercise of their religion, as it had existed prior to the Conquest; and to extend to them the right of being Members of the Council, appointed to advise the Governor in the conduct of their local affairs. It was an Act, in short, full of benefits and privileges for those newly acquired subjects of the Crown; and it was complained against, at the time of its passing, as depriving those persons of British origin who had, or might thereafter become inhabitants of Canada, of the (to them) highly valued privilege of Trial by Jury in all cases, civil or criminal. Between this period and the passing of the Act of 1791, a change gradually took place in the population of the Province of Quebec—British capitalists became engaged in its commerce: British emigrants began to settle on its uncultivated lands: while numbers of those, whose unconquerable loyalty had kept them faithful to the British Crown during all the vicissitudes of the American Revolutionary War, were induced to emigrate to that Province as a refuge, where they might enjoy that Government and those rights which they had sacrificed all to sustain. Each of these classes of persons was strongly attached, by

Government of the Province of Quebec till 1774.

Number of inhabitants about 90,000. Statute, 14th Geo. 3rd, passed.

Object of that Statute.

Passed with a view to give to the French Canadians,

the enjoyment of their laws—the free exercise of their religion, &c., and the right to seats in the Governor's Council.

Act complained of at the time, as being inimical to British feelings.

Between that period and 1791 British Emigrants began to arrive,

and Loyalists who had suffered during the American Revolution.

Proclamations had been issued, that in Canada they should enjoy the Constitution to which they were attached.

To redeem the pledge given to each party the Province of Quebec was divided into Upper and Lower Canada.

1791.
Constitutional Act passed, conferring the further privilege of making their own laws subject to revision in certain cases.

Constitution formed on the model of that of the Mother Country.

This Constitution should have been considered a boon by the French Canadians.

habit and principle, to the laws and constitution of the Mother Country; and indeed different Proclamations had, from time to time, promised, more particularly to the U. E. Loyalists, that in Canada they should still enjoy the benefit of that Constitution to which they were so warmly attached. Pledged, however, as the faith of the Government was, and bound by every consideration to fulfil the just expectation of such settlers, the interests of the French Canadians were not overlooked; and with a view to do justice to the former classes, without infringing on any thing that had been granted or promised to the latter, the Province of Quebec was divided into Upper and Lower Canada. The Act of 1791—the Constitutional Charter of these Provinces was passed, by which, in addition to the advantages already secured to the French Canadians, they had power further conferred upon them to provide for the establishment of such laws for their own peace, welfare, and good government, as they should consider most advisable. In granting this Legislative authority, there was a power of revision, however, reserved to the Crown to prevent any particular measure, injurious to the public welfare, being inconsiderately adopted. The degree of independence necessary for the freedom and prosperity of the people of both Provinces, was unreservedly granted, while the connexion with Great Britain was secured—the *King himself* being one of the branches of the Legislature of each Province: and thereby ample security was afforded for the prosperity and safety of the Provinces and of the whole Empire.

That such a Constitution ought to have been considered a boon by any people, and more especially by one who, prior to the cession to Great Britain, appears not to have had the smallest share in Self-Government, can scarcely be questioned; and your Committee could scarcely have supposed that the desire expressed in the first Resolution,

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to introduce "a good and responsible system of Local Government," could have originated in any other cause than that the Constitutional Charter had not been carried into effect: a reference to the second Resolution however dispels this doubt, and shews what are "the grievances" complained of, and what is understood by the terms "a good and responsible system of Local Government;" and your Committee defer remarking upon the "similar advantages" which this Province might expect to gain from the attainment of their objects by the House of Assembly of Lower Canada, until they have examined what these objects are.

A reference to the second Resolution shews the real object of the Assembly of Lower Canada to be—

These are stated in the second Resolution to be:

"To render the Executive Council directly responsible to the Representatives of the people, in conformity with the principles and practice of the British Constitution, as they obtain in the United Kingdom.

To render the Executive Council responsible to the people.

"To extend the principle of election to the Legislative Council, which branch of the Provincial Legislature has hitherto proved, by reason of its *independence of the people*, and of its imperfect and vicious Constitution, insufficient to perform the functions for which it was designed.

That the Legislative Council shall be elective.

"To place under the constitutional and salutary control of this House the whole of the Revenues levied in this Province, from whatever source arising.

Revenues of the Province to be under the control of the Legislature.

"To abolish pluralities, or the cumulation in one person of several or incompatible offices.

To abolish pluralities.

"To procure the repeal of certain Statutes passed by the Imperial Parliament, in which the people of this Province are not, and cannot be represented; which acts are an infringement of the rights and privileges of the Legislature of this Colony, and are injurious to the interests of the people thereof.

To procure the repeal of certain Acts of the Imperial Parliament.

To obtain wholesome and necessary control over the internal affairs of this Province:

"To obtain over the internal affairs of this Province, and over the management and settlement of the wild lands thereof, (for the advantage and benefit of all classes of His Majesty's Subjects therein, without distinction) that wholesome and necessary control which springs from the principles of the Constitution itself, and of right belongs to the Legislature, and more particularly to this House, as the Representatives of the people.

Benefits of these reforms.

"Which reforms are specially calculated to promote the happiness of His Majesty's Subjects in this Province—to draw more close the ties which attach the Colony to the British Empire, and can in no way prejudice or injure the interests of any of the Sister Provinces."

Committee confine their remarks to the leading topics of the Executive and Legislative Councils.

To examine into every one of these "Reforms" would extend this Report to a most inconvenient length, and your Committee have therefore judged it better to confine their attention to the two leading topics of the Executive and Legislative Councils, because in them is to be found ample reason why, in the opinion of your Committee, the people of this Province ought not, through their Representatives, and would not, in their individual capacity, co-operate in furthering the views expressed in this Resolution.

Composition of the Legislative Council considered.

Union of the three Estates the best feature of the British Constitution.

The question regarding the Executive Council it is perhaps unnecessary to discuss. Never was the public opinion more clearly, more emphatically expressed, than on that very subject, at the late general Election. A large majority of your Honorable House was, as your Committee firmly believe, returned as advocating principles and opinions diametrically opposed to those contained in this second Resolution. Your Committee, however, cannot let pass the opportunity of expressing their opinion, that the Governor, Lieutenant Governor, or person administering the Government of this Province, is entrusted with the exercise of the Royal Prerogative within the

Nomination of the Legislative Council by the Crown no new theory.

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same, and that he, (and not the Executive Council) is constitutionally responsible, as well to the Sovereign as to the people of this Province, for the impartial and upright performance of the duties of his office—a responsibility essential to the preservation of the rights and liberties of His Majesty's Subjects in Upper Canada, and which it is the imperative duty of their Representatives to maintain and enforce, and not to suffer that responsibility, so far as depends on them, to be weakened or destroyed, by transferring the whole or any portion of it to other parties; and that any attempt to transfer to the Executive Council this responsibility, and as a necessary consequence the power and patronage vested by law in the person administering the Government, is in derogation of the Constitutional Charter, and would be dangerous to the liberties of the people—injurious to the stability of our social and political Institutions—and utterly destructive of the ties which attach this Colony to the British Empire.

On the subject of the extension of the elective principle to the Legislative Council, your Committee have equally decided, and they trust well founded views. The union of the three Estates—Monarch, Aristocracy, and Democracy, in the Government, has been always considered the characteristic and most valuable feature of the British Constitution; and with a view of securing a free and well-balanced system of Government, with the Kingly power for its head, the intervention of a third estate, independent of the people, though possessing the same common interests with them, and of the Crown, though deriving rank from it, has been found productive of the happiest results; and so far from the creation of Legislative Councils nominated by the Crown being a new theory or experiment in Colonial Government, the Constitution of other Colonies, the date of which is long antecedent to that of our own, abundantly proves, alike, their existence

An elective Legislative Council would give to the people a double representation, and the balanced system of Government be destroyed.

Such an experiment would, in the opinion of the Committee, lead to a dissolution of our connection with the British Empire.

The late General Election decisive of public opinion, with respect to the Executive Council.

Opinion of the Committee on that subject.

His Majesty's Representative alone responsible to His Majesty and the people;

And cannot transfer that responsibility without violation of the Constitutional Charter.

and utility; and your Committee find it difficult to conceive how a change, which would make the Legislative Council elective, and so give the people a double representation, each branch being in every respect independent of the Crown, could have any other effect than to render the whole system democratic, and, as your Committee believe, inevitably to lead to a separation from the Parent State. Where the Chief Magistrate is elective there can be no reason why all the remaining branches of the Legislature should not be so likewise—but such a state of things would, in the opinion of your Committee, be incompatible with Monarchical Institutions, and as a necessary consequence, must, if adopted, be destructive of our existence as an integral portion of the British Empire.

For reasons already expressed, your Committee pass by the other “*reforms*” suggested, and take up the third Resolution, which is in the following words :—

The third Resolution.

“*Resolved*—That it has long been the aim of the enemies of these Colonies, by deliberate and unfounded misrepresentations, to engender dissensions and bad feelings between the people thereof, in the hope of preventing all union of purpose among the people, and of thereby preventing the reform of those abuses and evils of which the people have so frequently complained, and which are connived at or upheld for the advantage of a minority hitherto unjustly possessing, and still endeavoring to maintain a political ascendancy in this Province, contrary to the principles of all good government.”

Committee trusts that the aim of those who have made *misrepresentations* of the affairs of this Province will be defeated.

Upon this your Committee will offer only one remark. They do not pretend to judge how far the statements therein contained may be true as regards Lower Canada; but with regard to this Province, they can with great sincerity assert, that although there have been “*deliberate and UNFOUNDED misrepresentations*,” as well before as

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since the adoption of this Resolution by the Assembly of Lower Canada, in regard to the affairs of this Province, yet they confidently hope and believe that the aim of those who have made them to suit their own unhallowed purposes, will be defeated by the firm determination of your Honorable House, on all occasions, "to maintain our happy Constitution inviolate"—and at the same time, to correct cautiously, yet effectually, "all real grievances."

With respect to the fourth Resolution, which is as follows:—

Resolved—That this House has seen with extreme concern a Speech delivered at the opening of the present Session of the Legislature of Upper Canada, by His Excellency Sir John Colborne, late Lieutenant Governor of that Province, at a moment when his sudden recalcitrance reflected particularly on the merits of his Administration, in which it is stated that the affairs of this Province had exercised an injurious influence on the interests of Upper Canada—had tended apparently to discourage Emigration and the transfer of capital to that country, and had acted disadvantageously in respect to the terms on which the large Loan authorised by the Legislature of that Province was recently negotiated in England;—that such a statement is calculated to misrepresent the views of this House; to prejudice the people of these Provinces against each other; to disturb that good understanding which ought to prevail, and which has hitherto prevailed between the said people; and in place thereof to sow discord and animosity among the several classes of His Majesty's Subjects in these Provinces."

Fourth Resolution

Your Committee feel it right in the first place to remark, that whatever may be the opinion of the House of Assembly of Lower Canada, on the merits of the administration of His Excellency Sir John Colborne, the universal public testimonies

Opinion of the Assembly of Lower Canada of Sir J. Colborne's administration incorrect.

The dissensions in the Lower Province very injurious to the interests of Upper Canada.

of respect that were shewn to him on his departure from the Province, have abundantly proved in what light his character and conduct were viewed among us. And your Committee would further remark, that in their opinion it would be idle to deny that the dissensions in the Lower Province have produced an injurious influence on Emigration, as well as on the financial arrangements of Upper Canada, and will, if they continue, be daily more prejudicial to our general welfare.

The fifth Resolution states, that the Assembly of Lower Canada repudiates any design to embarrass the Upper Province in her endeavours to improve her political condition.

The next Resolution declares—"That strong in the rectitude of their intentions and principles, and moved alone by a desire to introduce order and responsibility into their political institutions, in the place of the disorder and abuse which now unhappily prevail, this House, and the people whom it represents, indignantly repudiate all design to injure the interests or embarrass the exertions of the people of Upper Canada, in whose welfare the people of this Province feel a lively interest, and for whose patriotic exertions to improve their political and social condition, this House entertains a sincere respect; and this House is gratified to perceive that the Representatives of the Sister Province have done this House the justice to acquit it of being the cause of any dissensions or embarrassments existing in the Colony; and this House firmly repeat, that those dissensions and embarrassments proceeded from the defective constitution of the Legislative Council of these Colonies, and from the continued unconstitutional exercise by the same persons, of Executive, Legislative, and Judicial functions—from which causes have resulted the abuses of which the people of this Province have so long and so justly complained."

Her embarrassments proceed from the defective Constitution of the Legislative Council, and from the exercise, by the same persons, of Executive, Legislative and judicial functions.

The Committee are not aware that any such design has been imputed to the Assembly of Lower Canada,

Your Committee are not aware that the House of Assembly of Lower Canada have ever been charged with a *design* "to injure the interests or embarrass the exertions" of the people of this

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Province. The dissensions unfortunately prevailing there have caused, in the minds of most reflecting men among us, both regret and anxiety; and the expression of that feeling is natural and just, when we have reason to believe that our interests have sustained a prejudice, in many respects, from the peculiar position of public affairs in the Sister Province. Under ordinary circumstances, your Committee would have avoided the expression of any opinion on the affairs of Lower Canada, and they now disclaim all wish to pronounce upon their concerns, further than to the extent of a discussion of matters affecting the interests of this Province, and naturally springing from a consideration of the Resolutions transmitted to this House.

nor do they desire to discuss the concerns of the Sister Province, further than as they tend to affect the interests of Upper Canada.

Such a discussion naturally springs from a consideration of the Resolutions transmitted.

The brief review taken by your Committee of the history of the Province of Quebec, and its separation into Upper and Lower Canada, and of the amelioration of its political condition by successive acts of grace and favour, has led them to the conclusion, that every disposition has been indicated by the Home Government to provide for the peace and welfare of all classes of His Majesty's subjects, inhabiting the Canadas, and to afford them the protection of liberal institutions, and of laws subject to their own revision. That in the practical operation of these institutions some difficulties might arise, was naturally to be expected, nor should it be matter of surprise that there may have gradually crept in some abuses which require amendment and reform. To all just complaints, your Committee feel assured, a ready attention would be given; and the careful investigation, by the House of Commons, of the affairs of the Canadas in 1828, together with the ample information afforded by Government at that time, proves, to the satisfaction of your Committee, that every readiness has been shewn by His Majesty and the Imperial Parliament, to remove every such abuse, and to give to the people here every redress that circumstances might require. With this belief

Committee arrive at the conclusion, that every disposition has been shewn by the Home Government to provide for the peace and welfare of the Canadas.

The investigation by the House of Commons, in 1828, and the information afforded by Government at that time, proves the correctness of this opinion.

Convinced of the truth of the same, they deeply regret the tone of the Resolutions transmitted, and the spirit in which they were conceived and adopted.

Nor can they withhold their sympathy for the treatment shewn to their fellow subjects of British origin in Lower Canada—a Province won by British arms.

Situated as Upper Canada is every material change in Lower Canada must affect the Upper Province also

When a Member of the House of Commons makes such a declaration as Mr. Roebuck is reported to have done,

Committee think it right to deny their belief of the truth of the assertion.

The high sense of national honor and friendly feelings of the American Government, would prevent their lending their aid to any traitorous conspiracy.

on the one hand, and strong in their conviction of the excellence of our Constitution as it is, on the other, your Committee perceive, with lively regret and alarm, the tone of these Resolutions, and the spirit in which these or similar measures have been latterly insisted on by the House of Assembly which adopted them; nor can they withhold an expression of deep sympathy for their fellow-subjects of British origin in the Lower Province, who seem, in some respects, to be treated, and who have been almost denounced as foreigners and intruders in a Colony which was won by the enterprise and heroic courage of British warriors. Geographically situated as Upper Canada is, and governed under the same Constitution with the Sister Province, whatever change occurs in their form of Government, or whatever remedies the Imperial Parliament may adopt for the cure of the evils now prevailing there, must, in some degree, and perhaps to an extent not now contemplated, affect us likewise. When a Member of the British House of Commons, the salaried Agent of the Assembly of Lower Canada, declared in his place, (as Mr. Roebuck is reported to have declared,) that in the neighbourhood of Lower Canada "there were 13,000,000 of Republicans, who, *as soon as the flag of Rebellion should be unfurled*, would rally round it, and trample in the dust the whole establishment," your Committee think it right for your Honorable House promptly to declare, that, in their opinion, the few traitors in either Province, who would desire to hoist the standard of revolt, are so sensible of their weakness, that there is no fear of such an effort being made; and that should they be rash enough to attempt it in the expectation of foreign support, they would look in vain for aid from the United States, whose Government has been actuated by feelings of the most friendly and pacific character towards the British Empire, and whose high sense of national honour would always prevent their lending their aid to a traitorous conspiracy. Whatever course

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may be taken with regard to the affairs of the Lower Province, your Committee cannot let slip the opportunity of expressing their anxious hope, that no consideration will induce a departure from the principles contained in the Charter of 1791, and that in any remedial measures which may be adopted, the preservation of our rights as British subjects, and of our intimate connexion with the Mother Country, *as a Colony*, will never be lost sight of or endangered by weak and temporizing concession.

Committee trusts that whatever course may be adopted towards Lower Canada, the rights of this Province will not be endangered by temporising concession.

Your Committee, after this examination of these Resolutions, have arrived at the conclusion, that to pursue the course which has been followed in the Lower Province, and to espouse the principles avowed and insisted on by the House of Assembly there, would be contrary to the wishes as well as the interests of Upper Canada; would shake our system of Government to its centre, and would rapidly and inevitably tend to establish a Republican form of Government among us. Impressed with this conviction, your Committee feel it their duty to submit to your Honorable House the propriety of presenting an humble address to His Majesty, solemnly disavowing the sentiments contained in these Resolutions, and earnestly deprecating any departure from the principles of our Constitution, or the adoption of any course of policy calculated to weaken the ties which attach this Colony to the British Empire.

Impressed with the conviction that the adoption of the principles contained in the Resolutions would inevitably lead to a Republican Government recommend an address to His Majesty, solemnly disavowing any participation in the sentiments contained therein.

After this review of the Resolutions, to which your Committee have felt it their duty to devote their best attention, there remains little for them to do, but to advert to the Letter of Mr. Speaker Papineau.

Committee advert to Mr. Papineau's letter.

By the last Resolution, he was authorised to transmit copies thereof to the several Assemblies of Upper Canada, and of the other Sister Provinces, "and to express the desire of this House "cordially to co-operate with the said Assemblies

The last Resolution authorises Mr. Speaker Papineau to transmit the series.

"in all constitutional measures calculated to promote the mutual interests of these Colonies."

Under this authority alone Mr. Papineau wrote his letter.

Mr. Papineau not authorised to insult the Government or Assembly of this Province

Mr. Papineau alone responsible for this violation of courtesy and decorum.

The whole tenor of this letter is such, that it would have been passed over in silent contempt, had it not been found on the Journals of the House

The late period of the Session at which it was reported, alone, prevented that consideration of the letter which would have prevented the Journals from being disgraced by its appearance on them.

It is under the authority of this latter clause that Mr. Papineau has assumed to write this Letter, which, in addition to a lengthened commentary on the Resolutions, contains some expressions to which your Committee beg to draw the attention of your Honorable House.—In reference to one of the Imperial Statutes, imposing certain duties, Mr. Papineau remarks—"It is true that the Government of Upper Canada induced a *bribed* or unwary Parliament to petition for the revival and continuation of those taxes." Your Committee find nothing in the Resolutions giving authority to Mr. Papineau to use language insulting to the Government of this Colony, or to a former House of Assembly: nor do they believe that the House of Assembly of Lower ever designed such an unwarrantable and indecent course should be followed. For this violation of decorum, and of the courtesy due from one Legislature to another, Mr. Papineau stands solely responsible; but your Committee think it beneath the dignity of your Honorable House to take further notice of so base and unfounded a calumny. The tenor of the whole letter is, in the opinion of your Committee, of a purely rebellious character; and the sentiments of the writer will find nothing but execration from the inhabitants of this Province. It carries its antidote in itself, and is so utterly revolting to a loyal and well disposed mind, that while deserving of every punishment, it requires no confutation, and would have been passed over by your Committee in silent contempt, without even this brief notice, if it were not to be found on the Journals of your Honorable House. The late period of the past Session when it was laid on the table of the House—two months after the Resolutions were adopted, and rather more than one month after the date of the Letter—prevented the late House of Assembly from taking the sub-

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ject into consideration. This delay is unaccounted for, and is to be regretted; for your Committee are satisfied that had there been time for consideration, the Journals of the Assembly would not have been disgraced by the Letter of Mr. Speaker Papineau.

All which is respectfully submitted.

HENRY SHERWOOD,

CHAIRMAN.

*Committee Room, House of Assembly,
February 22, 1837.*

*The above report was adopted by
the House by a vote of 32 yeas to
12 nays*

Printed by order of the Commons House of Assembly.

—
R. STANTON, PRINTER.